

*Subject*  
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CIA

OGC HAS REVIEWED.

Chief, Administrative Service

27 June 1952

Office of General Counsel

Use of Time Recorders for Attendance Purposes

1. Reference is made to your memorandum of 5 May 1952 regarding proposed installation of two IBM time recorders at the [redacted] 25X1A plant. Enclosed therewith was a study by the Bureau of the Budget dated 18 May 1945 entitled "Legislative Restrictions on Time Studies in the Federal Government."

2. The recorders for attendance purposes and clocks for time studies are separate subjects and have been treated in entirely different ways. Accordingly, the discussion in this memorandum will be confined to the issue you specifically presented, namely, time recorders for attendance purposes.

3. The basic legislation on this subject, as is pointed out in the Bureau of the Budget brief, is as follows:

"a. 'That no recording clocks used for recording time of clerics or other employees shall be purchased for use in any of the executive departments at Washington, District of Columbia, except from moneys specifically appropriated therefor.' (30 Stat. 655, July 7, 1898)"

"b. 'No money appropriated by this Act shall be used for expense of repairing recording clocks used for recording time of clerks or other employees in any of the executive departments at Washington, nor shall there hereafter be used in any of the executive departments at Washington, any such recording clocks.' (30 Stat. 864, Feb. 24, 1899)"

From this, it may be seen that two points are to be considered: (1) Whether or not CIA is an executive department, and (2) assuming that it is, whether the IBM machines in question being for plant use in [redacted] are necessarily in Washington within the meaning of the legislation.

25X1A  
4. <sup>May 27, 1948</sup> An early decision of the Comptroller General (24 Comp. Dec. 709) strictly construed the words "executive department" in holding that the Food Administration, although similar to an executive department, was actually not one. However, he reversed his position at 2 Comp. Gen. 519 wherein it was held that even though

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the Federal Trade Commission was not an executive department and although there was no specific law prohibiting it from purchasing the clocks, and no law prohibiting it from using such clocks, in view of the general policy of Government as evidenced by the Congress (see laws quoted above), it was the Comptroller General's opinion that such purchases are not authorized. It is apparent, therefore, that the Agency may be considered as included in the term, "executive department" within the meaning of the laws referred to. In support of this, see 14 Comp. Gen. 350 which states in part, "the phrase 'heads of departments' as used in the Constitution and Federal statutes having been generally regarded as applicable to the heads of independent establishments."

Nov. 1934

Dec. 15, 1920

5. With respect to the prohibition of recording clocks in Washington, the decision reported at 27 Comp. Dec. 546 is pertinent. It was there stated that the prohibition against the purchase and use of such clocks in executive departments in Washington (citing the two Acts) does not prohibit their installation and use outside of the District of Columbia provided their installation has administrative approval and funds are available. In support of this position, the Comptroller General's decision reported at 26 Comp. Gen. 893 (May 26, 1947) is pertinent. This decision was written in response to a request from the Department of Commerce for an advance decision as to whether there may be certified for payment a voucher covering a claim for payment for three time recorders furnished the Washington National Airport. The decision contains the following language at page 893-4:

"It appears from your letter that the three time recorders are to be installed at the Washington National Airport in order to record the hours of service of the maintenance and custodial personnel on duty at various locations at the airport. It appears further that the installation of the recorders has been determined to be in the best interests of the Government on the basis that their use will materially increase the efficiency of supervisors and result in some increase in the amount of work performed by the employees concerned. You indicate in your letter that your doubt as to whether the voucher may be certified for payment arises by reason of the act of February 24, 1909, 30 Stat. 804, which provides, in pertinent part, as follows:

'No money appropriated by this Act shall be used for expense of repairing recording clocks used for recording time of clerks or other employees in any of the Executive Departments at Washington, nor shall there hereafter be used in any of the Executive Departments at Washington any such recording clocks.'

"The above-quoted statutory provisions appear to prohibit the use of time recording clocks in the executive departments in Washington only, whereas...the said Airport

may be regarded as located within the Commonwealth of Virginia and, therefore, that the purchase of time recording clocks for use at such location is not prohibited by the statutory provisions quoted above. Furthermore, there appears to be no law specifically prohibiting the use of time recording clocks at the said Airport..."

6. Based on the foregoing, it is the opinion of this office that the use of time recorders for attendance purposes at the [redacted] plant is permissible.

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7. It is stated in your memorandum that it is planned to use such time recorders in the courier system. In the absence of a full description of the factual situation, including intended use in or out of Washington, this office is unable to render an opinion on this subject at this time. We will be glad to give an opinion after the submission of additional facts. It may be stated that the recorders are in use in certain Government establishments within the city limits of Washington. These are apparently without exception used in so-called "field installations" as opposed to "executive departments". In other words, it would seem that the specific provisions of the law prevent the use of time recorders for attendance purposes at the executive headquarters of any Government agency located in Washington, but that such use is not forbidden at installations of Government agencies in the city of Washington which serve a field function.

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